

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LIVINGSTON ENTERPRISES, INC.,

Plaintiff,

vs.

LEXTRON, INC., a Colorado corporation;
ANIMAL HEALTH INTERNATIONAL,
INC., a Colorado corporation; and
BOEHRINGER INGELHEIM
VETMEDICA, INC., a Delaware
corporation;

Defendants.

8:11CV352

**SECOND
AMENDED PROGRESSION ORDER**

ANIMAL HEALTH INTERNATIONAL,
INC., a Colorado corporation;

Plaintiff,

vs.

LIVINGSTON ENTERPRISES, INC., a
Nebraska corporation;

Defendant.

8:12CV144

AMENDED PROGRESSION ORDER

This matter is before the court on the Plaintiff Livingston Enterprises, Inc.'s motions to extend certain deadlines related to its claims against defendant Boehringer Ingelheim Vetametica, Inc., (filing no. 76; case no 8:11cv352 and filing no. 54; case 8:12cv144). The third motion to extend deadlines related to its claims against Boehringer Ingelheim Vetmedica, Inc., (filing no. 81; case no. 8:11cv352 and filing no. 59; case 8:12cv144) is granted.

IT IS ORDERED:

- 1) The jury trial of this case is set to commence before John M. Gerrard, United States District Judge, in Special Proceedings Courtroom, United States Courthouse, Omaha, Nebraska at 9:00 a.m. on **July 22, 2014**, or as soon thereafter as the case may be called, for a duration of seven (7) trial

days. This case is subject to the prior trial of criminal cases and such other civil cases as may be scheduled for trial before this one. Jury selection will be held at commencement of trial.

- 2) The Pretrial Conference is scheduled to be held before the undersigned magistrate judge on **July 8, 2014** at **10:00 a.m.**, and will be conducted by WebEx conferencing. To facilitate this conferencing method, the parties' proposed Pretrial Conference Order and Exhibit List(s) must be emailed to zwart@ned.uscourts.gov, in either Word Perfect or Word format, by 5:00 p.m. on April 7, 2014. An email will be sent to counsel of record with the instructions and codes for participating in the pretrial conference by WebEx.
- 3) A telephonic conference with the undersigned magistrate judge will be held on **February 11, 2014** at **9:30 a.m.** to discuss the status of case progression and potential settlement. Counsel for plaintiff shall place the call.
- 4) The deadlines for moving to amend pleadings or add parties are:

For the plaintiff(s):	July 29, 2013
For the defendant(s):	August 28, 2013
- 5) As to all issues (both liability and damages) on all claims and defenses between all parties, Livingston may take 15 depositions; Animal Health and Boehringer may, collectively, take 20 depositions.
- 6) As to the **liability** issues, and defenses on such issues, on all claims between Livingston and Boehringer:
 - a. The deadlines for serving complete expert disclosures for liability experts, (both retained experts, (Fed. R. Civ. P. 26(a)(2)(B)), and non-retained experts, (Fed. R. Civ. P. 26(a)(2)(C)), are:

For Livingston:	July 30, 2013
For Boehringer:	September 4, 2013
 - b. The deadline for completing discovery (both written and deposition) is October 15, 2013. Motions to compel Rule 33 through 36 written discovery must be filed by October 1, 2013.
 - c. As to the **liability** issues, and related defenses, on claims between Livingston and Boehringer, the deadline for filing motions to

dismiss, motions for summary judgment, and motions to exclude testimony on *Daubert* and related grounds is November 15, 2013.

- 7) As to the **liability** issues, and defenses on such issues, on all claims between Livingston and Animal Health:
- a. The deadlines for identifying liability expert witnesses expected to testify at the trial are:

For Livingston:	November 1, 2013
For Animal Health:	November 29, 2013
 - b. The deadlines for serving complete expert disclosures for liability experts, (both retained experts, (Fed. R. Civ. P. 26(a)(2)(B)), and non-retained experts, (Fed. R. Civ. P. 26(a)(2)(C)), are:

For Livingston:	January 29, 2014
For Animal Health:	February 28, 2014
 - c. The deadline for completing written discovery is February 28, 2014. Motions to compel Rule 33 through 36 written discovery must be filed by February 13, 2014.
 - d. The deposition deadline is March 12, 2014.
 - e. As the **liability** issues, and related defenses, on claims between Livingston and Animal Health, the deadline for filing motions to dismiss, motions for summary judgment, and motions to exclude testimony on *Daubert* and related grounds is March 28, 2014.
- 8) As to the **damage** issues, and defenses to such issues, on all claims between all parties:
- a. The deadlines for identifying damage expert witnesses expected to testify at the trial are:

For Livingston:	November 1, 2013
For Animal Health and Boehringer:	November 29, 2013
 - b. The deadlines for serving complete expert disclosures for damage experts, (both retained experts, (Fed. R. Civ. P. 26(a)(2)(B)), and non-retained experts, (Fed. R. Civ. P. 26(a)(2)(C)), are:

For Livingston:	January 29, 2014
For Animal Health and Boehringer:	February 28, 2014

- c. The deadline for completing written discovery is February 28, 2014. Motions to compel Rule 33 through 36 written discovery must be filed by February 13, 2014.
- d. The deposition deadline is March 12, 2014.
- e. As to the issue of **damages**, and all related defenses, on all claims between all parties, the deadline for filing motions to dismiss, motions for summary judgment, and motions to exclude testimony on *Daubert* and related grounds is March 28, 2014.

April 23, 2013.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge